

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Revision of the Commission's)	
Rules to Ensure Compatibility)	CC Docket No. 94-102
with Enhanced 911 Emergency)	
Calling Systems)	
)	
Cingular Wireless LLC)	DA-01-2080
Request for Waiver)	

To: The Commission

**COMMENTS OF APCO, NENA, AND NASNA
IN RESPONSE TO REQUEST FOR WAIVER OF
CINGULAR WIRELESS, LLC FOR ITS TDMA/AMPS NETWORKS**

The Association of Public-Safety Communications Officials-International, Inc. ("APCO"), the National Emergency Number Association ("NENA"), and the National Association of State Nine One One Administrators ("NASNA") (collectively referred to herein as "Public Safety Organizations") hereby submit the following comments in response to the Commission's *Public Notice*, DA 01-2080, released September 4, 2001, seeking public comments regarding a "Petition for Limited Waiver of Sections 20.18(e)-(h)" filed by Cingular Wireless LLC ("Cingular") on August 30, 2001, in the above-captioned proceeding, with regard to Cingular's TDMA/AMPS networks.¹

Cingular previously submitted, and then withdrew, a waiver request for its TDMA/AMPS networks. That initial request was grossly inadequate, as it had failed to offer an actual location solution, or even a path towards compliance. The current request is a substantial improvement and comes much closer to meeting the goals of Phase II. Given our previous criticism of

¹ The Public Safety Organizations submitted comments July 31, 2001 in response to the Cingular request for its GSM networks.

proposals, including that of AT&T Wireless, which effectively would strand analog subscribers and roamers in Phase I fallback solutions, we are gratified that the Cingular amendment (17-19) would extend Phase II location service to these customers.

We are disturbed however, that Cingular waited until the eleventh hour before making a final technology selection and submitting its request. Had this occurred earlier, Cingular might have been able to begin deployment by October 1, as required by the Commission's rules. As we have indicated in response to other waiver requests, carriers should not be granted relief from the rules to accommodate delays in Phase II deployment that are the direct result of their own inaction.

Cingular attempts to avoid any adverse consequences of its delay by saying that there is no time to test the viability of TruePosition's "guarantee" of compliance with the FCC's Phase II standards. Thus, since Cingular claims it must accept the vendor's statements on faith, it seeks "contingent enforcement relief in the event these accuracy or deployment commitments cannot be met." (Petition, 19)

The Public Safety Organizations have long believed and advocated that the best predictors of Phase II performance will be actual experience. So we are no more inclined than Cingular toward further pre-testing. At the same time, we would urge the Commission not to grant the kind of blanket relief Cingular wishes, especially when the applicant's own delays have put both the FCC and public safety between a rock and a hard place. Should TruePosition fail, we note that, by Cingular's own report (Petition, 8), SigmaOne is a plausible alternative for at least certain of the carrier's service areas. Without endorsing TruePosition, SigmaOne or any other vendor, we submit that Cingular's eligibility for relief from enforcement will depend on the

energy and quality of its efforts to come up with alternatives should its first choice fail. The Commission said as much in its earliest expression of waiver requirements.²

The Public Safety Organizations have urged the Commission to adopt quarterly reporting requirements for carriers to chart their progress towards full compliance. Should the Commission grant Cingular's TDMA/AMPS waiver request, it should require that Cingular's quarterly reports also include data concerning the accuracy levels achieved as its location solution is deployed. This will provide all parties with early indications as to whether Cingular is indeed on track toward meeting the "guaranteed" levels of accuracy and rates of deployment upon which it is relying.

Cingular proposes a deployment schedule which it claims will lead to the delivery of complete and accurate Phase II capability to very large numbers of its subscribers by the end of next year, and thereafter in compliance with the Commission's rules. Cingular claims that fully compliant Phase II service will be provided by December 2002 to "satisfy each of the valid PSAP requests that have been received by Cingular to date in TDMA/AMPS markets."³ Cingular also states that after 2002, it "will have the capability to supply Phase II information within six months of a valid PSAP request," consistent with the Commission's rules. What is not clear, however, is when Cingular would be able to satisfy PSAP requests made between now and the middle of next year, which are likely to be substantial in number.⁴

² Fourth Memorandum Opinion and Order, FCC 00-326, released September 8, 2000, ¶45.

³ By "to date," we assume that Cingular is referring to the date of its request (August 30, 2001).

⁴ Presumably, requests made prior to June 30, 2002, could not be satisfied within the mandated six month period, unless Cingular is asserting (Petition, 18) that the deployment at 2000 cell sites by the end of 2002 will accommodate not only all Phase II requests received to date but all such requests placed between now and the end of next year. Any waiver grant must be clear as to the deployment expected.

Cingular (Petition, 18) “expects that public safety organizations will assist it with prioritizing outstanding requests for Phase II information.” With our previously expressed caveat that none of the organizations could or should dictate to its member jurisdictions, we will be of as much help as we can. In order to fulfill that offer, however, we need to know where requests are pending now and to be kept up to date as more are filed. If this information is not now on the record, it should be supplied as a condition of any grant or partial grant of waiver.

Notwithstanding the late filing of Cingular’s TMDA/AMPS waiver request, the Commission must still scrutinize it in the same manner as it reviews requests from other carriers. Did Cingular proceed with all deliberate speed to identify a solution, order equipment, and begin deployment? Are there other location technologies that may have permitted a more rapid implementation? Is Cingular deploying its selected technology in the fastest possible manner? Did Cingular give adequate study and consideration to all options and combinations of options? These are all questions that the Commission must address before determining whether a waiver is warranted.

CONCLUSION

The Commission should carefully consider Cingular's request consistent with that set forth above.

Respectfully submitted,

Robert M. Gurss
SHOOK, HARDY & BACON, L.L.P.
600 14TH Street, NW #800
Washington, DC 20005
(202)662-4856

Counsel for APCO

James R. Hobson
Miller & Van Eaton, PLLC
1155 Connecticut Avenue, NW, Suite 1000
Washington, D.C. 20036-4306
(202) 785-0600

Counsel for NENA

September 19, 2001